

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

## IN RE LITHIUM ION BATTERIES ANTITRUST LITIGATION

Case No. 13-MD-02420 YGR (DMR)

MDL No. 2420

## This Document Relates to:

## *ALL DIRECT PURCHASER ACTIONS*

**ORDER GRANTING IN PART MOTION  
FOR ORDER AUTHORIZING  
DISTRIBUTION OF SETTLEMENT FUNDS;  
GRANTING ADMINISTRATIVE MOTION  
OF SPRINT TO FILE SURREPLY**

Dkt. Nos. 2584, 2609

The Court, having considered Direct Purchaser Plaintiffs' Motion for Order Authorizing Distribution of Settlement Funds (Dkt. No. 2584), the opposition filed by Sprint Communications, Inc. (Dkt. No. 2597), the reply and surreply thereto, as well as the pleadings and other papers on file in this action and the statements of counsel and the parties, hereby finds that:

1. The Court previously granted final approval of all the settlement agreements, found that due and adequate notice of the settlements was provided to the Class, and granted final approval of the Plan of Allocation set forth in the Class Notices. (*See* Dkt. Nos. 1438 [Sony], 1940 [Hitachi Maxell], 1942 [NEC], 1944 [Panasonic/SANYO], 1946 [Toshiba], 2316 [TOKIN], 2317 [Samsung SDI], and 2318 [LG Chem].)

2. Certain portions of the claims submitted by Sprint were rejected improperly by the Claims Administrator. Specifically, Sprint's claims for its purchase of cellular phones, characterized in the attachment to its claim submission as purchased from "Kyocera" for the period of January 1, 2000 to March 31, 2008, shall be deemed purchases from defendant Sanyo and shall

1 be approved. Sprint, through its agent Kent Recovery Services, attempted to resolve the Claims  
2 Administrator's disallowance of Sprint's claim for millions of eligible Sanyo cell phone purchases,  
3 including providing additional information regarding the basis for the claimed purchases. Sprint's  
4 attempts were met with a cursory, inadequate, and long-delayed response by the Claims  
5 Administrator and DPPs' counsel. Sprint explained that its database reflected the Kyocera name  
6 for all purchases because Kyocera acquired Sanyo's phone business in April 2008 and it continued  
7 to purchase cellular phones from the new entity, Kyocera Sanyo Telecom. (Dkt. No. 2597-6,  
8 Jerymn Decl., at Exh E [Declaration of Sprint Manager of Handset Inventory, Russell Anderson,  
9 dated March 24, 2020].)<sup>1</sup> The Court finds this explanation reasonable and that Sprint acted  
10 reasonably diligently under the circumstances.<sup>2</sup>

11           3.     Aside from the objection raised by Sprint, the claims review process appears  
12 otherwise to have been fair, adequate, and reasonable, and to have provided a full and fair  
13 opportunity for potential class members to submit a valid claim.

14           4. The Settlement Administrator's conclusion that a minimum payment of \$10.00 (ten  
15 dollars) to each approved claimant would conserve administration funds and therefore provide a  
16 greater net benefit to the class overall is reasonable and is approved.

17        5.      The Settlement Administrator incurred a total of \$673,964.94 in costs and expenses  
18 in processing and auditing claims, and related expenses through December 31, 2019, and these  
19 costs and expenses were reasonably incurred in the ordinary course of administering the  
20 settlements and were necessary given the nature and scope of the case.

<sup>1</sup> DPPs' objection to the Anderson declaration as lacking in foundation is **OVERRULED**.

<sup>22</sup> Sprint requested to leave to file a surreply (Dkt. No. 2609), which the Court **GRANTS**. Sprint  
23 conceded in the surreply that it had mistakenly believed Kyocera Sanyo Telecom was a “Sanyo  
24 subsidiary or affiliate” and therefore covered by the settlement claims process when it submitted its  
25 original claim documentation. It was not until the instant motion that Sprint was informed that  
26 Kyocera Sanyo Telecom was not qualified as a subsidiary or affiliate, and therefore claims  
27 identifying “Kyocera” as the seller would be disallowed. While the motion herein described a  
more detailed process of follow-up with high value claimants, that process admittedly was not  
followed with respect to Sprint’s high value claims. Had DPP Counsel or the Claims  
Administrator communicated with Sprint regarding the reasons for its disallowance determination  
sooner, Sprint could have separated out the pre- and post-Kyocera buyout purchases more precisely  
and otherwise corrected the apparent mistake here.

1           6. The Settlement Administrator's estimate that its remaining work from January 1,  
2 2020 to the completion of final distribution will cost \$136,968.96 is reasonable and is approved.

3           Accordingly, it is hereby **ORDERED** that DPPs' Motion for Approval of Distribution is  
4 **GRANTED IN PART** as follows:

5           1. In order to conserve administration costs and therefore provide a greater net benefit  
6 to the class overall, the Settlement Administrator shall distribute to each approved claimant with an  
7 eligible claim a minimum payment of \$10.00 regardless of the value of the claimant's strict *pro  
rata* share of the total settlement funds.

9           2. The Settlement Administrator's recommendations regarding the ineligibility and  
10 eligibility of the claims are approved, *except that* the disallowed claims of Sprint regarding  
11 purchase of Sanyo Eligible Cylindrical Unit Amounts are **ORDERED STRICKEN** from the  
12 ineligibility list and **ADDED** to the eligibility list. The Settlement Administrator is **DIRECTED** to  
13 submit revised lists reflecting this change no later than **November 6, 2020**.

14           3. The Settlement Administrator shall be reimbursed for costs and expenses incurred in  
15 the amount of \$673,964.94. Sufficient funds shall be reserved in escrow for the payment of  
16 additional claims administration costs in the amount of \$136,968.96, and for potential tax liability  
17 and other issues in the amount of \$250,000.00.

18           4. Upon submission of the revised attachments, the Court will issue a further order  
19 authorizing the distribution of the settlement funds, to be set forth in the eligible claims attachment,  
20 less funds for: (1) payment of claim administration costs; and (2) funds reserved for additional  
21 claim administration costs, potential tax liability and other issues. DPPs are directed to submit a  
22 proposed form of final order no later than **November 6, 2020**.

23           This terminates Docket No. 2584.

24           **IT IS SO ORDERED.**

25           Dated: October 21, 2020

  
YVONNE GONZALEZ ROGERS  
UNITED STATES DISTRICT JUDGE